

Serial No. 07/692,958

REMARKS

Claims 9-34 are now in the case.

Claims 1-8 have been cancelled.

The Personal Interview

The applicant wishes to thank the Examiner, Miss Witz, for the courteous personal interview granted to applicant's counsel, the undersigned, on May 30, 1991. The purpose of the interview was to discuss Claims 9-27 submitted in the preliminary amendment of April 22, 1991, and also the Declaration Under 37 CFR 1.132 filed in the Group on the day of the interview. Though no agreement was reached, the Examiner acknowledged that the showing made in the declaration regarding the criticality of the incubation temperatures in step (a) of Claims 9 and 27 may be sufficient to avoid the rejection under 35 USC 103 made in the parent case. Moreover, the Examiner agreed to entertain the allowability of claims drawn simply to the staining of sperm cells, pending additional search of the prior art. Accordingly, applicants have submitted herewith new independent Claim 28 which is modeled after step (a) of Claims 9 and 27. Dependent Claims 29-34 are analogous to previously submitted Claims 11-16, respectively.

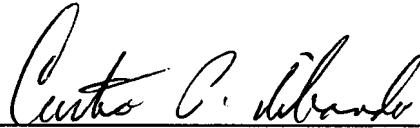
Serial No. 07/692,958

The Issue of Patentability

Newly submitted Claims 28-34 are considered to be patentable over the art of record for essentially the same reasons advanced in the preliminary amendment of April 22, 1991, and in the response filed on May 30, 1991. In brief, it is not obvious from the combined teachings of GB '112 and Lang that a sperm cell can be made more permeable to a dye without significantly affecting viability by incubation within the temperature range of 30°-39° C.

Accordingly, Claims 9-34 of record are deemed to be in condition for allowance, and a favorable action on the merits of this case is solicited.

Respectfully submitted,



Curtis P. Ribando, Agent of Record
Registration No. 27,976

Peoria, IL

FTS 360-4513
COM 309/685-4011, x513
44-74866 or 44-72421